

Service Date: December 10, 1984

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Montana Public     ) UTILITY DIVISION  
Service Commission's Investigation of    ) DOCKET NO. 84.10. 64  
Electric Avoided Cost Rates             ) ORDER NO. 5091a

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INTERIM ORDER AND NOTICE OF PREHEARING CONFERENCE

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1. On October 10, 1984, the Montana Public Service Commission initiated this Docket to investigate issues related to electric avoided cost rates. Order No. 5091 invited comments on these issues.

2. On October 25, 1984, the Montana Power Company (MPC) filed a motion seeking immediate suspension of long-term avoided cost rates.

3. Comments were received from the three electric utilities who purchase electricity under the Commission's avoided cost rates, as well as numerous interested persons, including those who wish to sell electricity to the regulated utilities.

SUSPENSION OF LONG-TERM AVOIDED COST RATES

4. Both the Commission's Order No. 5091 and MPC's Motion raised the possibility of suspending the long-term rate, pending a final order in this Docket. All commenting utilities favored suspension. In general, those wishing to

sell electricity to the regulated utilities opposed any suspension.

5. The Commission raised the possibility of suspension because of a concern, based on evidence presented in other dockets and on the philosophy adopted in Docket No. 83 .9.67, Order No. 5051c, that current avoided cost rates may be too high. If that is the case, then ratepayers who will be the ultimate purchasers of electricity sold to utilities, would be subsidizing small power producers and cogenerators. Such a subsidy would be contrary to the Public Utility Regulatory Policies Act and the duty of the Commission to assure just and reasonable rates. Such a possibility carries with it serious ramifications, especially for long-term contracts, which may run as long as 35 years. At the same time, the Commission continues to recognize its duty to encourage the development of plants built by small power producers and cogenerators.

6. In deciding the issue of suspension of long-term rates, the Commission must delicately balance ratepayer interests and the interests of those who have made major investments in reliance on the present long-term avoided cost rates. The Commission is also aware that, at this time, it does not have before it legally sufficient evidence that proves beyond any doubt that current long-term rates are too high. A full suspension would totally protect ratepayers from paying rates that are too high. However, based on its experience and on comments submitted in this Docket, the Commission believes that a suspension of long-term rates would effectively eliminate further development of the small power and cogeneration industry in Montana.

7. The Commission, therefore, believes that a middle ground

approach is appropriate. Those qualifying facilities that have fully negotiated contracts with utilities should be able to secure those contracts under the terms and prices presently in effect. These contracts will encourage a substantial amount of development by small power producers and cogenerators. For example, MPC estimates that under this scenario, approximately 70 MW of electricity will be purchased. When this is added to contracts already signed, MPC will be purchasing approximately 100 MW of electricity at a cost of approximately \$45 million per year.

8. The issue of those who do not have fully negotiated contracts must also be addressed. Presumably, these individuals have invested fewer funds than those with fully negotiated contracts. Given that reasonable assumption, the Commission believes that ratepayer interests outweigh any reliance those individuals have placed on the terms and conditions currently in effect. Therefore, any contracts that are negotiated and signed between now and the time a final order is issued in this Docket must contain a provision that requires an adjustment in the pricing terms which reflect the long-term rates determined in this Docket. Pending a final order, those contracts must contain the current rates, unless other terms are mutually agreed to by the parties.

#### PREHEARING CONFERENCE

9. A prehearing conference will be held December 19, 1984, at 2 p.m. in the Commission's offices, 2701 Prospect Avenue, Helena, Montana. The following topics, at a minimum, will be discussed:

- 1) Issues that the Commission wishes to have addressed in this proceeding.

- 2) Deadlines for intervention.
- 3) Issues that may be amenable to settlement negotiations.
- 4) Means by which these proceedings may be expedited.
- 5) General procedures that will be followed in this Docket.
- 6) Issues which should be made the subject of a rulemaking proceeding. Other issues may be raised by the Commission, its staff and interested persons.

Those attending the conference are expected to come prepared to address the issues listed.

#### CONCLUSIONS OF LAW

1. The Commission has the statutory duty to supervise, regulate and control public utilities. 69-3-102, MCA.
2. The Commission has the statutory duty to assure that utility rates are just and reasonable. 69-3-202, MCA.
3. The Commission has a duty to encourage development of cogeneration and small power production. 69-3-604(2), MCA.
4. The provisions of this order fairly balance the interests of ratepayers, utilities, small power producers and cogenerators.

#### ORDER

1. MPC's Motion to suspend long-term rates is denied.
2. The Montana Power Company, the Montana-Dakota Utilities Company and the Pacific Power and Light Company (the

Utilities) are directed to sign all those contracts which are fully negotiated as of the service date of this order.

3. The Utilities are directed to insert in any contract negotiated between the service date of this order and issuance of a final order in this Docket, a provision that requires an adjustment in the pricing terms to reflect, on a prospective basis, the rates established by that order.

DONE AND DATED this 7th day of December. 1984 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

ATTEST:

Madeline L. Cottrill  
Commission Secretary

(SEAL)

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THOMAS J. SCHNEIDER, Chairman

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JOHN B. DRISCOLL, Commissioner

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HOWARD L. ELLIS, Commissioner

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CLYDE JARVIS, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Madeline L. Cottrill  
Commission Secretary

NOTE:        You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.